

board mounted within the upper above the sole and extending forwardly from the heel portion toward the forefoot portion, a rigid heel counter mounted in the upper above said heel portion, said sole being formed with a longitudinal channel in the bottom surface [and] with the channel extending through the peripheral rim and with [a] the channel dividing the heel portion into a pair of laterally adjacent compression elements, said compression elements having interior sidewalls which are spaced apart [a] an effective distance [sufficient] to isolate the compression elements from motion of their interior sidewalls and permitting independent movement of the compression elements whereby the heel counter and compression elements control the user's foot [or] pronation movement with [relatively] substantially low acceleration from initial heel strike phase to a loading phase of the gait cycle for the shoe.

REMARKS

Claims 1-4 were rejected under §112 with the statement that the term "sufficient" was vague and indefinite. The claim as amended above eliminates "sufficient" and adds the phrase "an effective" for specifying the distance between which the interior sidewalls are spaced apart, and with the function as recited in the original claim. Where a claim recites "effective" followed by a recitation of the function which renders it effective, then the term is considered to not be indefinite. In re Coldwell, 319 2d, 138 USPQ 243 (CCPA 1963) (the term "effective amount" held not indefinite); *Ex parte* Skuballa, 12 USPQ 2d 1570, 1572 (BAAI 1989). Accordingly, the §112 rejection is now deemed to be obviated.